



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 90-25 – Regulations Governing Certified Nurse Aides
Department of Health Professions
March 27, 2006

Summary of the Proposed Regulation

The Board of Nursing (board) proposes to amend the Regulations Governing Certified Nurse Aides to require nursing aide programs to report any change of physical location to the board and to specify that the licenses required of program coordinators and instructors be current and unrestricted. The board also proposes to dedicate 16 of the 24 training hours that nursing aide students are required to complete, before they have contact with nursing facility patients, to five enumerated core curriculum topics. Further, the board proposes to add one provision to the list of actions that may lead to disciplinary action and specify that a nursing aide certificate holder can only petition the board once to remove a finding of neglect.

Result of Analysis

The benefits likely exceed the costs for all proposed regulatory changes encompassed by this regulation.

Estimated Economic Impact

Current regulation requires that nursing aide program coordinators and primary instructors be registered nurses. Also, any substantive change in nursing aide programs must be reported to the board within 10 days. Substantive changes include any change in program coordinator, primary instructor, program ownership or licensure ownership. The board proposes to add language to this regulation that will clarify that registered nurses who are serving as program coordinators or primary instructors must hold current and unrestricted licenses. The proposed regulation will also specify that changes in “physical location of the program” are substantive changes and, therefore, must be reported to the board within 10 days.

The requirement that nursing aide program coordinators and primary instructors hold current, unrestricted licenses has been long standing board policy which is already reflected in guidance documents. Adding this requirement to the proposed regulation will likely have no economic impact since it does not represent a change from current practice for the regulated community.

The board proposes to specify that changes in physical address have to be reported to the board within 10 days because, they report, at least one program has in the past moved without informing the board. The proposed regulation is silent as to how these programs must report substantive changes but any method program owners might choose will have only very minimal cost attached. Reporting these changes could take as little effort as making a phone call to a board representative or as much effort as typing up a letter and mailing it. Either way, the benefits of the board actually knowing where the programs they regulate are located likely far outweigh the costs that nursing aide programs will accrue to comply with this requirement.

Currently, nursing aide program students are required to complete 24 hours of training in their program's core curriculum before they have contact with nursing home patients. The board proposes to decrease the number of hours of training needed in core curriculum areas from 24 to 16. Primary instructors for these programs, and the board, feel that 16 hours of training in the areas considered core curriculum is sufficient and that the remaining eight hours of training that are required before students have patient contact would be better spent on subjects outside the core curriculum. The proposed regulation will not change the total hours of training nursing aide students must undertake, it only changes what will be taught to them during those hours. Accordingly, regulated entities, nursing aide program owners and students, are unlikely to incur any extra expenses because of this regulatory change.

Current regulation allows the board to discipline nursing aides for securing a certificate through fraud or deceit or for engaging in unprofessional conduct; the regulation explicitly lists the situations that fall under the definition of each of these disciplinary grounds. The board proposes to add "providing false information to staff or board members during the course of an investigation or proceeding" to the list of activities that counts as unprofessional conduct and, so, merits disciplinary action.

Although the board does not offer a rationale for making this change, it makes sense that it would be necessary. Allowing regulants to lie with impunity would tend to limit the board's ability ferret out the truth during investigations; penalizing lying will help to reduce regulants' willingness to lie. The benefits of this regulatory change for the public and employers... who will have better information with which to make healthcare decisions and employment decisions, respectively... will likely outweigh the costs that nursing aides may accrue if they lose their certification for lying to the board.

In addition to the above change in nursing aide disciplinary policy, the board proposes to add a regulatory limit to the number of times that a nursing aide may petition to have a finding of neglect stricken from their record. Although current regulation is silent as to how many times nursing aides are allowed to make such a petition, the board's current policy and guidance documents only allow for it to happen once. Since this regulatory change will not change current practice, regulated entities will likely incur no extra costs because of its promulgation.

Businesses and Entities Affected

Currently, 41,436 individuals are certified by the Commonwealth as nursing aides. The regulated community affected by this proposed regulation comprises these individuals plus the more than 100 nursing aide training programs that operate in Virginia.

Localities Particularly Affected

The proposed regulation will affect all localities in the Commonwealth.

Projected Impact on Employment

The proposed regulation is unlikely to have any impact on employment opportunities for nursing aides.

Effects on the Use and Value of Private Property

The proposed regulation contains no substantive changes to the regulatory requirements under which nursing aide programs currently operate; nursing aide programs operators are unlikely to see the value of their programs either increase or decrease because of this regulation.

Small Businesses: Costs and Other Effects

Nursing aide programs that qualify as small businesses will incur the very minimal cost of informing the board of any changes in physical address.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no other methods of accomplishing the board's goals that would further minimize any adverse impact on small businesses.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.